

REMARKS

Introductory Matters/Claim amendments

Claims 1-10, 14, 16-17, 20, 22 and 27 are pending in this application. Claims 1-10, 14, 16-17, 20, 22 and 27 stand rejected.

Applicants have amended the definition of R⁸ in claims 1-8 to remove methyl (unsubstituted C₁ alkyl)

These amendments add no new matter.

THE OFFICE ACTION

35 U.S.C. § 103 (Armistead *et al.*, WO/01/60816)

Claims 1-10, 14, 16-17, 20, 22 and 27 stand rejected under 35 U.S.C. § 103 as being obvious over Armistead *et al.*, WO/01/60816. The Examiner has maintained his contention that compounds claimed in WO 01/60816 differ from the compounds in the instant claims by having a -H group at position 6 of the pyrimidine ring instead of *e.g.* a methyl, and thus are structural analogs.

The Examiner further contends that the claim amendments submitted by the Applicants on 21 November 2008, do not sufficiently remove methyl from the definition of R⁸. The Examiner further contends that a substituted C₁₋₆ aliphatic, according to the specification on page 14 may contain one or more substituents, with hydrogen being one of the possible substituents. Therefore, the Examiner contends that the definition of R⁸ continues to include a "methyl group".

In order to improve clarity, Applicants have amended claims 1-3, by specifically reciting that at least one of the substituents on R⁸ = C₁₋₆ aliphatic is other than hydrogen. Applicants respectfully submit that the amended claims are not *prima facie* obvious in light of Armistead *et al.*

35 U.S.C. § 103 (Dixon *et al.*, WO/03/026664)

The Examiner has maintained the second ground for rejection of claims 1-10, 14, 16-17, 20, 22 and 27 under 35 U.S.C. § 103 as being un-patentable over Dixon *et al.*, WO/03/026664. The Examiner contends that the reference teaches a generic group of pyrimidine-2,4-diamine compounds, which embraces Applicants' instantly claimed compounds. The Examiner further contends that the compounds according to the instant claims differ from the reference disclosed compounds by having a substituent at a different position on the pyrimidine ring from the reference compound (Example 69) and therefore the compounds are positional isomers. The Examiner cites several CCPA cases to assert that: "[A compound] structurally isomeric with a compound of prior art is *prima facie* obvious absent unexpected results". As above, the Examiner contends that the definition of R⁸ continues to include a "methyl group" in the amended claims filed on 21 November 2008.

In order to improve clarity, Applicants have amended claims 1-3, by specifically reciting that at least one of the substituents on R⁸ = C₁₋₆ aliphatic is other than hydrogen. Applicants respectfully submit that the amended claims are not *prima facie* obvious in light of Armistead *et al.*

For the above reasons, Applicants respectfully request that the Examiner withdraw these 103 rejections.

CONCLUSION

Applicants request that the Examiner enter the above amendments, consider the accompanying arguments, and allow the claims to pass to issue. Should the Examiner deem expedient a telephone discussion to further the prosecution of the above application, Applicants request that the Examiner contact the undersigned attorney at his convenience.

Respectfully submitted,

/H. Joon Chung/
H. Joon Chung (Reg. No. 52,748)
Attorney for Applicants
Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242
Tel.: (617)444-7923
Fax.: (617)444-6483
Customer Number: 27916